

**MINUTES
RULES COMMITTEE
THURSDAY, JUNE 3, 2010, 8:00 AM.**

Board Members Present at Roll Call: James Heaslet, Michael Petrus II, and Debbie Rudd, A quorum was present.

Also Present at Roll Call: Dan Pietropaulo, Executive Director; Jeanne Galvin, Assistant Attorney General, and Rebecca Loar, Compliance Administrator

Members of the public present that spoke included:

Beth Buehl of LPS, Ann Susko with COAA, Sue Miller with COAA, and Joanna Conde with Arizona Appraiser's State Conference.

Dan Pietropaulo, Executive Director provided a brief description relating to SB1351 and specifically § 32-3662(b)(6) and § 32-3662(b)(8). Both of these provisions require the registered Appraisal Management Company "to have a system in place" to ensure that the work of independent appraisers conforms to USPAP and that staff of the AMC are appropriately trained in how to select appraisers for each assignment. There was discussion relating to what those "systems" may look like, how they would operate and what would the Board's role be in monitoring or evaluating the systems. Additional discussion centered on how much of an appraiser's work (5% or 10%) should be reviewed by the AMC to ensure compliance with USPAP without creating a hardship or intervening in the AMC's business practices. The members also discussed at what periodic intervals these reviews should occur. It was suggested by Debbie Rudd that only 5% of the appraiser's work be reviewed using a Standard 3 Review and only done by an Arizona Certified Residential or Certified General Appraiser. There was a general consensus with this suggestion among the Committee members.

There was additional discussion relating to the appropriate education required to train AMC staff in the selection of competent appraisers for each assignment. Jeanne Galvin, Assistant Attorney General, suggested that setting parameters and clear requirements for the AMC's to meet is important in terms of enforcement purposes. There was discussion among the Committee and public body that geographical competency and a basic understanding of USPAP should be included, or develop a course specifically for those individuals, possible testing either by the Board or the Appraisal Management Agency (AMC). The Committee Members felt that requiring the staff who assigns appraisal assignments to attend a 15 hour USPAP course is not necessary and would not be helpful. It was agreed that the staff must be trained and knowledgeable and understand that an appraiser may be obligated to refuse an assignment because of competency issues and that such refusal should not result in adverse action against the appraiser.

The Committee then began a discussion of the fees to be assessed to the AMC's seeking initial and renewal registration.

James Heaslet moved to go into executive session for the purpose of receiving legal advice regarding fees. Michael Petrus II seconded the motion. The Committee voted unanimously in favor of the motion.

The Committee re-entered public session.

Ms. Rudd explained that while pursuant to SB 1351, the Board has the authority to charge a fee for initial and renewal registration, the fees must be contained in rule before it can be assessed and collected.

Mr. Pietropaulo expressed his concern that the fees that are charged are sufficient to cover the operating expenses of the Board as it relates to the licensing and regulation of AMC's. Mr. Pietropaulo also noted that as written SB 1351 does not provide an appropriation for the Board to expend the funds once they are collected. There was further discussion concerning the Fiscal Impact Statement developed for the Board that suggested the initial registration fee be \$1,800.00 and the renewal fee be \$1,200.00. Additional discussion centered on whether the fee should be based upon the number of appraisers an AMC has on its panel. Beth Buehl of LPS expressed concern that charging an initial or renewal fee based upon the number of appraisers an AMC had on its panel would unfairly penalize the larger AMC's and would result in the AMC's reducing the number of appraisers on their panel thereby, harming the appraisers and the consumers. Further discussion by the committee pointed out that the larger AMC's would probably result in more complaints being filed, thus costing the BOA more. While the goal is not to profit from having the larger AMC's pay more for registration, nor is it the goal to have it cost the BOA more.

The Committee then discussed its options relating to the promulgation of rules and initiating the rule making process including regular and emergency rule making. James Heaslet asked that the Executive Director, Dan Pietropaulo, explore the option of opening and filing an Emergency Rulemaking Docket relating to the setting of fees, and open a second regular Rulemaking Docket for the remainder of the rules. The Committee also asked Mr. Pietropaulo to explore the possibility of hiring a rules writer to assist the Board with the process. The Executive Director is to report back with costs and other impacts after exploring these issues.

Additional discussion relating to A.R.S. 32-3668 (b) was held and the requirement that each person that owns, is an officer of or has a financial interest in an AMC must submit to a background investigation as determined by the Board. The discussion included the need to define "owner" such as corporation and "financial interest" such as stockholder, percentage owner, etc. The discussion encompassed having the AMC provide the background check with criteria set by the Board, such as F.B.I. and Department of Public Safety fingerprint checks. James Heaslet moved that the Committee recommend to the Board that the initial application fee be set at \$1,800.00 and that the AMC's provide the required background check results as part of the application process. Michael Petrus II seconded the motion. The Committee voted unanimously.

The Committee directed staff to draft an application and all required forms to be presented to the Board.

James Heaslet moved that the Committee recommend to the Board that it begin the process of opening and filing an Emergency Rulemaking Docket with regards to the fees. Michael Petrus II seconded the Motion. The Committee voted unanimously.

Michael Petrus II moved that the Committee recommend to the Board that the initial application registration fee for the first year is \$1,800.00 and the renewal fee be set at \$1,800.00 for the renewal application. James Heaslet seconded the Motion. The Committee voted unanimously.

James Heaslet recommended that the Board have a separate Board meeting to discuss, consider the Committee's recommendations. Michael Petrus II seconded the recommendation. The Committee voted unanimously.

James Heaslet moved to direct the Executive Director, Dan Pietropaulo, to explore the possibility of hiring a rule writer and to provide the Board with a proposal. Michael Petrus II seconded the recommendation. The Committee voted unanimously.

PUBLIC ANNOUNCEMENTS AND CALL TO PUBLIC

Beth Buell with LPS thanked the Board for the opportunity to be a part of the process and offered any assistance possible.

Sue Miller with COAA thanked the Board for the opportunity to be a part of the process and offered any assistance possible. She asked the Board that since it doesn't state in State Statute Chapter 5 that this is a 90/10 agency, because Chapter 5 is part of Title 32 which does state this is a 90/10 agency, doesn't that mean that Chapter 5 is established as a 90/10 agency as well?

Joanna Conde with COAA provided the following recommendation to the Committee:

- 1) According to the state statutes, "The Board may appoint advisory committees as the Board deems appropriate." R4-46-102. You may wish to appoint an advisory committee to review the legislation and make recommendations.
- 2) Concerns with the legislation:
 - a) There is no protection for the appraiser who must, due to illness or inability to complete an appraisal without consulting another appraiser in order to meet USPAP requirements to be excluded from being considered an AMC according to this legislation.
 - b) There is no exclusion for attorneys or real estate agents who may contract with an appraiser on behalf of their clients in the process of doing business.
 - c) This legislation essentially prevents a one person appraisal firm from growing as has previously been done, by first trying out new appraisers as independent contractors before making them employees. Is there anyway that this could be mitigated?
 - d) There is no definition of "complete" that would prevent the AMC from continuing to ask for information. According to USPAP, the Scope of Work falls entirely on the shoulders of the appraiser, but this legislation allows the AMC to define the scope of work by allowing the AMC to tell the appraiser what information is required after the appraisal has been submitted. This needs to be clarified. See 32-3674 (c) (1).
 - e) "Completed" needs to be defined.
 - f) 32-3677(c) "Reasonable" needs to be defined.

There are other concerns that will be addressed as the rules for training and administration are developed. Training should not be devised as to put a monopoly of training into the hands of one provider.

ADJOURNMENT

The meeting was adjourned.

Debbie Rudd, Chairperson